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Attorneys for Defendants  
**CITY OF MONTE SERENO, BRIAN LOVENTHAL,**  
**ERIN GARNER, A. CURTIS WRIGHT, MARK BRODSKY,**  
**BARBARA NESBET and DAVID BAXTER**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

JOSEPH PADGETT and DARLA PADGETT,

Plaintiffs,

vs.

CITY OF MONTE SERENO, et al.,

Defendants.

Case No. C 04 03946 JW (RS)

~~PROPOSED~~ **PROTECTIVE ORDER**  
MODIFIED BY THE COURT

Defendants City of Monte Sereno, Brian Loventhal, Erin Garner, A. Curtis Wright, Barbara Nesbet, Mark Brodsky and David Baxter (collectively, “defendants”) submit the following Proposed Protective Order in response to the Court’s July 25, 2005 Order Granting in Part and Denying in Part Plaintiffs’ Motion to Compel Palm Prints and Finger Prints, which compelled the individual defendants to submit finger and palm prints within 30 days:

1. Any and all palm prints and finger prints (“prints”) obtained from Defendants Brian Loventhal, Erin Garner, A. Curtis Wright, Mark Brodsky and David Baxter in conjunction with the Court’s July 25, 2005 Order, including any and all copies subsequently made thereof, are deemed

1 confidential and shall be used only for the purpose of the prosecution, defense, or settlement of this  
2 action, and for no other purpose.

3       2. Any and all prints obtained from the parties to this action, including any and all  
4 copies thereof, may be disclosed or made available only to the Court, to counsel for a party  
5 (including the paralegal, clerical and secretarial staff employed by such counsel), and to the  
6 "qualified persons" designated below:

7               (a) An employee of a party deemed necessary by counsel to aid in the prosecution,  
8 defense, or settlement of this action;

9               (b) Experts or consultants (together with their clerical staff) retained by a party to  
10 assist in the prosecution, defense, or settlement of this action;

11               (c) Court reporter(s) employed in this action; and

12               (d) Any other person as to whom the parties in writing agree.

13       3. The parties shall not provide any such prints, or any and all copies of same, to the  
14 media or any other person/entity not identified in Paragraph 2.

15       4. If such prints, or any copies thereof, are included in any papers to be filed in Court,  
16 such papers shall be labeled "CONFIDENTIAL - SUBJECT TO COURT ORDER" and be filed  
17 under seal until further order of this Court.

18       5. In order for a document(s) to be filed under seal, the party seeking to file the  
19 document(s) under seal must comply with the procedures set forth in Civil Local Rule 79-5.

20       6. In the event that such prints, or any copies thereof, are used in any Court proceeding  
21 in this action, they shall not lose their confidential status through such use, and the party using such  
22 shall take all reasonable steps to maintain its confidentiality during such use.

23       7. This Order shall survive the final termination of this action and the Court shall  
24 retain jurisdiction to resolve any dispute concerning the use of these prints. Upon termination of  
25 this case, counsel for the Plaintiffs shall assemble and return any and all prints obtained from  
26 Defendants Brian Loventhal, Erin Garner, A. Curtis Wright, Mark Brodsky and David Baxter in

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1 conjunction with the Court's July 25, 2005 Order, including and any all copies made thereof, and  
2 return same to counsel for Defendants, or shall certify the destruction thereof.

3 8. Nothing in this protective order is intended to preclude any other court of competent  
4 jurisdiction from ordering the disclosure of the defendants' palm and finger prints in other separate  
5 litigation.

6 APPROVED AND SO ORDERED.

7 Dated: August 10, 2005

/s/ Richard Seeborg

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RICHARD SEEBORG  
United States Magistrate Judge